

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600**

**WORKSESSION MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Tuesday, September 4, 2001, 9:00 A.M.**

**ACTION CALENDAR:**

1. **Minutes**, July 24, 2001 Worksession.

Action: Approved, (LLM/DLB, 4-0).

2. **Order Extending Time for the Board's Written Opinion** for 30-days is required in the following cases:

- (a) **A-5604, Appeal of Battery Park Citizens Association, Inc.** (Department of Permitting Services – Findings of requested investigations). Hearing held 6/13/01.
- (b) **S-570 [CBA-2973], Petition of Izaak Walton League** (shooting range). Show Cause Hearing. Hearing held 7/18/01.
- (c) **S-2475, Petition of Williams Communications, Inc.** (public utility building, public utility structures and telecommunication facilities). Hearing held 7/11/01.
- (d) **S-5606, Appeal of Robert Zarnetske** (Department of Permitting Services – Findings of Requested Investigations). Hearing held 7/11/01.

Action: Granted Orders Extending Time, (LLM/AMC, 4-0).

3. **A-5529, Appeal of Jeannie Ahearn** (Historic Preservation Commission – Historic Area Work Permit). Letter to the Board from the appellant withdrawing the administrative appeal.

Action: (1) Dismissed appeal as withdrawn; (2) granted refund the filing fee (100%) in accordance with the Board's Rules of Procedure, (DLB/LLM, 4-0).

4. **A-5547, Appeal of Barbara A. Grewe** (Department of Permitting Services (DPS) – Issuance of a Building Permit). Letter to the Board from the appellant requesting a refund of the filing fee.

Action: (1) Dismissed appeal as withdrawn; (2) granted refund of the filing fee (100%) in accordance with the Board's Rules of Procedure, (AMC/LLM, 4-0).

5. **A-5580, Appeal of Harry Patsalides** (Department of Permitting Services – Denial of a Nonconforming Use Application). Letter to the Board from Malcolm F. Spicer, Jr., Assistant County Attorney and Harry Patsalides, appellant, withdrawing the administrative appeal.

Action: Appeal dismissed as moot, (LLM/AMC, 4-0).

6. **A-5610, Petition of Charles Sullivan** (a covered porch). Letter to the Board from Helen Lynn Primo, Esquire, petitioner's attorney, requesting reconsideration and to stay the time for the appeal to the Circuit Court.

Action: (1) Denied request for reconsideration; (2) granted to stay the time for the appeal to the Circuit Court, (AMC/LLM, 5-0).

7. **A-5642, Petition of Robert S. and Genevieve D. Chase** (second-story addition). Letter to the Board from the petitioners withdrawing the variance request and requesting a refund of the filing fee.

Action: (1) Dismissed request as withdrawn; (2) granted refund of filing fee (50%) in accordance with the Board's Rules of Procedure.

8. **CBA-1358 [CBA-1461, CBA-2135], Technical Service Park Joint Venture Ltd. Partnership** (off-street parking). Letter to the Board from Stanley N. Garber, Zoning Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (AMC/LLM, 4-0).

9. **S-155, Petition of Mary B. Marienthal** (day nursery for a swim club). Letter to the Board from the petitioner requesting an administrative modification.

Action: Board to request that the administrative modification to be supplemented with a current statement of operations, consensus.

10. **S-310, [S-310-A, S-310-B], Petition of American College of Cardiology** (private educational institution). Letter to the Board from **Todd D. Brown**, petitioner's attorney, requesting an administrative modification.

Action: Granted the administrative modification, (DLB/LLM, 4-0).

11. **S-499, Petition of Jae Kyu Park, Eun Joo Park and Su Hung Choe** (retail convenience store). Letter to the Board from Demetrius Chittams, current leasee, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (LLM/AMC, 4-0).

12. **S-679, Petition of KFC National Management Company** (drive-in restaurant). Letter to the Board from Stanley N. Garber, Zoning Investigator, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (DLB/LLM, 4-0).

13. **S-1269 [S-1269-A], Petition of KFC National Management Company** (drive-in restaurant). Letter to the Board from Stanley N. Garber, Zoning Investigator, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (AMC/LLM, 4-0).

14. **S-1887, Petition of Poindexter Joint Venture** (medical and dental clinic). Letter to the Board from Stanley D. Abrams, petitioner's attorney, requesting a transfer of the special exception. Also included is a letter from Reginald Jetter, Division Chief, DPS.

Action: Granted the transfer of the special exception, (AMC/LLM, 4-0).

15. **S-1901, Petition of Sharee Pepper** (accessory apartment). Letter to the Board from David Carrier and Monica Lender, current property owners, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (AMC/LLM, 4-0).

16. **S-2300, Petition of McDonald's Corporation** (drive-in restaurant). Letter to the Board from Paul T. Glasgow, petitioner's attorney, withdrawing the special exception.

Action: Dismissed the special exception as withdrawn, (AMC/LLM, 4-0).

17. **S-2433, Petition of Hampshire Village Associates, Ltd. Partnership** (housing for the elderly) and **S-2434, Petition of Victory Housing** (assisted living facility). Letter to the Board from Stephen J. Orens, petitioners' attorney, withdrawing the special exceptions and requesting a refund of a portion of the filing fees.

Action: (1) Dismissed petitions as withdrawn; (2) granted the refund of the filing fees (50%) in accordance with the Board's Rules of Procedure, (LLM/AMC, 4-0).

18. **S-2457, Petition of The Harbor School** (private educational institution). Re-open the record to include landscape and lighting plan and kindergarten enrollment.

Action: (1) Record re-opened to include the landscape and lighting plan and the kindergarten enrollment; (2) record to remain open for two weeks for comments; and (3) item to return to 9/19/01 worksession, (LLM/AMC, 4-0).

19. **S-2482, Petition of Montgomery County Career Fire Fighters Association, Inc.** (private club). Letter to the Board from John F. McCabe, petitioner's attorney, requesting a continuance and inclusion of a transportation operational plan in the record.

Action: (1) Accepted operational plan into the record; (2) granted continuance request, \_\_\_\_\_, 4-0).

### **DECISIONS:**

21. **S-2481, Petition of Pulla G. Reddy** (group home). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted Hearing Examiner's Report and Recommendation to grant the special exception; (2) Board to request 6-month status reports from the petitioner; (3) Resolution to be issued by the Board to reiterate Condition No. 6 of Hearing Examiner's Recommendation, (AMC/DLB, 4-0).

**DISCUSSION ITEMS:**

22. Whether the Board wants to reschedule its worksession currently scheduled for 9/18/01?

Action: Worksession scheduled for 9/18/01 to be rescheduled for 9/19/01 @ 9 a.m.

23. Board discussion of cases to be referred to the Hearing Examiner. Cases currently scheduled on the Board's calendar are: S-2482/Montgomery County Firefighters for 9/19/01; S-657-A/Sunoco, Inc. for 10/17/01; S-2454/Nextel for 10/31/01; S-2484/Metropolitan Washington Orthodox Seniors Housing, Inc. for 11/14/01; S-2483/Winston G. Alexander for 11/28/01; S-2485/Sandy Evans Levine for 12/5/01; and S-2487/Orchard Development for 12/12/01.

Action: Cases listed above to be referred to the Hearing Examiner with the dates to be determined by that office, (AMC/LLM, 5-0).

**INFORMATION ITEMS:**

24. **S-420-E, Petition of Holy Cross Hospital** (hospital). Letter to the Board from Cornelius P. McKelvey, Senior Vice President, submission of a progress report on the special exception modification construction.

Action: (1) No action required by the Board, (2) progress reports to be included in the case record.

25. **S-2471, Petition of Nextel Communication** (public utility structures, public utility buildings and telecommunications facilities). Letter to the Board from Randy Currin, Northeast Region Zoning Manager, notifying the Board of the co-location of an additional carrier.

Action: Record re-opened to include Mr. Currin's letter with attachments, (AMC/LLM, 5-0).

**PENDING ITEMS:**

26. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr. , et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, notifying the Board of the special exceptions outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

27. **S-481 [CBA-1303], Petition of Hazel Allan Mumford** (antique shop). Letter to the Board from Stanley Garber, Zoning Investigator, DPS, notifying the Board that the special exception has been abandoned. Item to return to the worksession agenda on 9/18/01.

28. **S-920, Petition of Ellen Kleinknecht** (accessory apartment). Letter to the Board from Robert J. Dejter, Housing Code Field Supervisor, Department of Housing and Community Affairs (DHCA) requesting that the special exception be revoked. Also included is a letter from the special exception holder stating that the accessory apartment has been eliminated. Item to return to the worksession agenda on 9/18/01.

**Board Members**

Donald H. Spence, Jr., Chairman  
Donna L. Barron, Vice Chairman  
Louise L. Mayer  
Angelo M. Caputo  
Mindy Pittell Hurwitz

**Staff**

Sherry Glazer, Assistant County Attorney  
Katherine Freeman, Executive Secretary to the Board  
Hermene Jones, Administrative Specialist